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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/829,086 | 04/20/2004 | Carl Bonner | DIAZ119 | 6010 |
| 7590 ROBERT L. SHAVER DYKAS, SHAVER & NIPPER, LLP PO BOX 877 BOISE, ID 83701-0877 | | | EXAMINER PAHNG, JASON Y | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3725 | |
| SHORTENED STATUTORY PERIOD OF RESPONSE | | MAIL DATE | DELIVERY MODE | |
| 3 MONTHS | | 01/30/2007 | PAPER | |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | |
|------------------------------|-------------------------------|------------------------------|--|
| Office Action Summary | Application No. 10/829,086 | Applicant(s) BONNER, CARL | |
| | Examiner Jason Y. Pahng | Art Unit 3725 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 9, 2007 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, and 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (US 3,661,333) in view of Koba (US 6,505,658).

With regard to claim 1, Smith discloses a feed device capable of use with a hammer mill including:

1. a generally uniformly cylindrical feed roller (R), the feed roller (R) having a longitudinal axis (32) and a roller surface (30);

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2. a plurality of gripper teeth (48a, 48b, 52) positioned in rows along the roller surface and extending from a left and right lateral edge of the feed roller (R) toward a mid-circumferential center plane (Figure 1)
3. every row of the gripper teeth (48a, 48b, 52) positioned non perpendicular to the mid-circumferential center plane; and
4. the angle of the rows on the left side being equal and opposite to the angle of the rows on the right side (Figure 1).

Claim 1 further calls for the gripper teeth to be in a generally chevron shaped arrangement. In a closely related art, Koba discloses a feed device with gripper teeth (1) arranged in a generally chevron shaped arrangement in order to better grip feed material and move material toward center (Figure 1). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide Smith with gripper teeth arranged in a generally chevron shaped arrangement in order to better grip feed material and move material toward center, as taught by Koba.

With regard to claim 2, Smith discloses rows that are generally parallel to each other (Figure 1).

With regard to claim 4, Smith discloses rows extending from the left and right lateral edges substantially to the mid-circumferential center plane.

With regard to claim 5, Smith discloses a non-congruent center portion (52) of gripper teeth (48a, 48b, 52) rows.

With regard to claim 6, Smith discloses rows of teeth angled 30 to 60 degrees (Figure 1).

With regard to claim 7, Smith discloses rows of teeth (48a, 48b, 52) in a direction not parallel to a line extending radially from the longitudinal axis of the feed roller (Figure 1).

Claims 3, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (US 3,661,333) in view of Koba (US 6,505,658) as applied above, further in view of Peterson et al. (US 4,721,139).

Claims 3, 8, and 9 call for teeth repeatedly arranged in rows of non-uniform teeth heights. In a closely related art, Peterson discloses a feed device with teeth repeatedly (column 2, lines 66-68) arranged in rows of non-uniform teeth heights (column 2, lines 60-62) in order to better grip feed material. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide Smith with teeth arranged repeatedly in rows of non-uniform teeth heights in order to better grip feed material, as taught by Peterson.

Response to Arguments

Applicant's arguments filed on January 9, 2007 have been fully considered but they are not persuasive.

With regard to the claim rejections under 35 U.S.C. 102, the arguments are moot in view of new grounds of rejection.

With regard to the Peterson device, Applicant argues that the purpose of uneven teeth which spreads material is opposite to Smith which moves material toward center.

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This is not persuasive. These two objectives are cooperative and they do not teach against each other. Why does Applicant use uneven teeth to spread material and use chevron arrangement to move material toward center?

Applicant does not present any new additional arguments regarding the rest of the dependent claims.

Conclusion

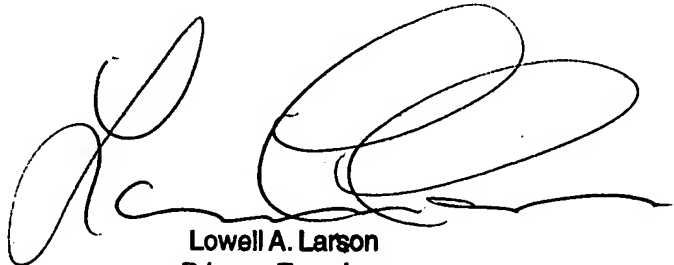
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Y. Pahng whose telephone number is 571 272 4522. The examiner can normally be reached on 9:30 AM - 8:00 PM, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larson Lowell can be reached on 571 272 4519. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JYP



Lowell A. Larson
Primary Examiner